

**REMARKS**

Claims 1, 4 and 5 are all the claims pending in the application.

Claims 1 and 5 are rejected.

Claim 4 is objected to.

Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Che et al. (U.S. Patent No. 5,604,587) in view of Reick et al. (U.S. Patent No. 3,641,332).

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Applicants traverse the rejections and request reconsideration.

***Claim Rejections Under 35 U.S.C. § 103***

**Rejection of Claims 1 and 5 based on Che et al., in view of Reick et al.**

The Applicant respectfully amends claim 1 to recite "sample liquid" instead of "sample" or "fluid".

The Examiner cites Reick for its alleged teaching on the air layer. However, the Applicants respectfully submit that Reick is not related analyzing cells, but is related to an illumination system. This system guides an illumination light to an object to be illuminated that is located outside of the illumination system. The light passes through the core of resinous material of large diameter. In Reick, the diameter of the core is made as large as possible for efficient light transmission. Clearly, a sample liquid cannot be flown in the core.

On the other hand, for analyzing cells, the length of the cell should be long enough, and the diameter of the cell (cross-section area of the cell) should be as small as possible so that small amount of the sample liquid can be analyzed.

As mentioned above, the reference Reick belongs to a technical field that is completely different from analyzing cells. The functions, purpose and problems to be solved are also different from the cell for analyzing sample liquid. A skilled artisan in the art of analyzing cells used for analyzing sample liquids will not use the technique of the illumination system to improve the analyzing cell.

Further, Che discloses, "the clad 38 may be applied by dipping, spray or other means" (col. 4). On the other hand such complicated processes are not necessary to make the air layer of the analyzing cell. The air layer can be simply formed by inserting the inner tube into the outer protection tube. Therefore, the Applicants respectfully submit that clad 38 of Che cannot be easily replaced with the air layer.

Claim 1 should be allowed at least because the combined teachings of Che and Reick do not suggest the present invention as a whole including the air layer.

Claim 5 is dependent on claim 1 and is allowable for at least the same reasons.

#### ***Allowable Claims***

Claim 4 has been placed in an independent form. It should now be allowable.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Chidambaram.S.Iyer/

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/265550

**65565**

CUSTOMER NUMBER

---

Chid S. Iyer  
Registration No. 43,355

Date: September 4, 2007